

**FILED**

**JUL 03 2006**

**CATHY A. CATTERSON, CLERK  
U.S. COURT OF APPEALS**

**NOT FOR PUBLICATION**

**UNITED STATES COURT OF APPEALS**

**FOR THE NINTH CIRCUIT**

TSERING TSOMO,

Petitioner,

v.

ALBERTO R. GONZALES, Attorney  
General,

Respondent.

No. 04-73586

Agency No. A79-583-869

ORDER \*

On Petition for Review of an Order of the  
Board of Immigration Appeals

Argued and Submitted June 15, 2006  
San Francisco, California

Before: GOODWIN, O'SCANNLAIN, and THOMAS, Circuit Judges.

The court *sua sponte* vacates the Board of Immigration Appeals' decision and remands the petition for review for an actual finding of the nationality of the petitioner. The petitioner's testimony was unworthy of belief, but in declaring it impossible to decide nationality, the IJ disregarded documentary and other

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\* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by 9th Cir. R. 36-3.

evidence tending to show that in all probability she was, in fact, a refugee from Tibet. After making a finding of nationality, the Board should proceed to a decision on the merits of her claim. VACATED and REMANDED. It is so ordered.